

COMMERCIAL AIR TOUR
VOLUNTARY AGREEMENT
FOR
STATUE OF LIBERTY NATIONAL
MONUMENT
AND
GOVERNORS ISLAND
NATIONAL MONUMENT

Charm City Aviation LLC



COMMERCIAL AIR TOUR VOLUNTARY AGREEMENT

SUMMARY

This Air Tour Voluntary Agreement (Agreement) provides the terms and conditions for commercial air tours conducted by Charm City Aviation LLC of Statue of Liberty National Monument and Governors Island National Monument (Parks) as an alternative to an air tour management plan (ATMP), pursuant to the National Parks Air Tour Management Act (Act) of 2000. The parties to this Agreement are the National Park Service (NPS), the Federal Aviation Administration (FAA), and Charm City Aviation LLC (collectively, the Parties).

1.0 INTRODUCTION

The Act requires that commercial air tour operators conducting or intending to conduct commercial air tours over a unit of the National Park System apply to the FAA for operating authority before engaging in that activity. The Act further requires the NPS and the FAA to establish an ATMP for each National Park System unit for which one or more applications has been submitted, unless that unit is exempt from this requirement.¹

As an alternative to an ATMP, the NPS and the FAA may enter into a voluntary agreement with a commercial air tour operator who has applied to conduct commercial air tour operations over a national park including an operator that has interim operating authority for the park or a new entrant commercial air tour operator.² Voluntary agreements must address the management issues necessary to protect the resources and visitor use of the park without compromising aviation safety or the air traffic control system.³ A voluntary agreement may also include conditions for the conduct of air tour operations and provisions to ensure the stability of and compliance with the voluntary agreement. Each voluntary agreement reflects the provisions and conditions appropriate for the particular national park to which the agreement applies.

2.0 APPLICABILITY

This Agreement applies only to commercial air tour operations conducted by Charm City Aviation LLC in the area depicted in Figure 1 below. A commercial air tour subject to this Agreement is any flight, conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing over the Parks, or within ½ mile of the boundary of the Parks, during which the aircraft flies:

- (1) Below 5,000 feet above ground level (except solely for the purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the

¹ The Act provides an exemption to the ATMP and voluntary agreement requirement for parks with 50 or fewer commercial air tour operations each year unless the exemption is withdrawn by the NPS. *See* 49 U.S.C. § 40128(a)(5).

² *Id.* § 40128(b)(7)(A).

³ *Id.* § 40128(b)(7)(B).

rules and regulations of the FAA requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); or

(2) Less than one mile laterally from any geographic feature within the Parks (unless more than ½-mile outside the boundary of the Parks).

See 14 CFR § 136.33(d). The area covered by this Agreement is referred to as the voluntary agreement boundary.



Figure 1. Map of area subject to the Agreement for Statue of Liberty National Monument and Governors Island National Monument. An expanded view of the area of the Parks can be found in Appendix A.

3.0 OVERVIEW OF THE PARKS

Statue of Liberty National Monument is located on Liberty Island in New York Harbor. The monument was presented to the American people in 1886 by the Franco-American Union to commemorate the 100th anniversary of the independence of the United States. The Monument consists of two elements: the Statue of Liberty and the 12-acre Liberty Island on which it stands, and Ellis Island.

Liberty Island is located in Upper New York Bay, approximately 1.5 miles southwest of the tip of Manhattan Island. The Statue of Liberty has greeted millions who crossed the

Atlantic Ocean in search of freedom and opportunity and serves as a symbol to the world of those ideals of liberty upon which the United States was founded. Liberty Island contains several historic buildings that date from the early 1950s and are listed as contributing to the significance of the Liberty Island National Register Historic District. More than 4 million people visit Liberty Island each year.

Ellis Island, purchased by the federal government in 1808 from the State of New York, was approved as a site for fortifications, making the island part of the harbor defense system that included Castle Clinton at Battery Park in Lower Manhattan, Castle Williams and Fort Jay on Governors Island, Fort Wood on Bedloe's Island (now Liberty Island), and two earthworks forts at the entrance to New York Harbor at the Verrazano Narrows. In 1890, Ellis Island was selected as the site for the new federally operated immigration station for the Port of New York, and the facility opened on January 1, 1892. Ellis Island occupies a singular place in America's heritage as the primary U.S. immigration station from 1892 to 1954 when more than 12 million people passed through its complex.

Originally 3.5 acres in size, today Ellis Island covers nearly 27.5 acres. Ellis Island is the preeminent example of a government immigration and public health operation—the busiest and largest of its time. The “island of hope, island of tears” now symbolizes the American story of immigration, the cultural richness of the United States, and the contribution of immigrants to U.S. society.

Liberty and Ellis Islands contain several archeological sites including Native American shell middens and structures related to the historic development and use of the islands by the military and government immigration agencies. The museum collection of the Statue of Liberty National Monument and Ellis Island includes approximately 390,000 individual artifacts and more than one million archival records that represent the cultural and natural histories of both Liberty and Ellis Islands.

The purpose of Statue of Liberty National Monument and Ellis Island is to preserve, protect, and interpret these national and international symbols of freedom and migration and to promote understanding, reflection, and discussion about the meanings of liberty and opportunity.

Governors Island National Monument is located in New York Harbor, just south of Manhattan and west of Brooklyn. From 1794 to 1966, the U.S. Army on Governors Island was part of the social, political, and economic tapestry of New York City. Today, the island is a vibrant venue of art, culture, and performance against the backdrop of two centuries of military heritage and the skyline of one of the great cities of the world. Of the 172-acre Governors Island, NPS manages 22 acres.

Governors Island National Monument was first established in 2001 to preserve and protect Castle Williams and Fort Jay and to interpret them and their role in the defense of New York Harbor and the Nation. The island provides an opportunity to educate the public about the evolution of coastal defense and military communities as well as the Harbor's rich history and ecology.

Governors Island National Monument has had an important role in American history and defense, beginning with the American Revolution. Governors Island held Confederate prisoners of war and Union deserters during the Civil War and served as an important shipment center during World Wars I and II. The U.S. Army left Governors Island in 1966, when it was then used by the U.S. Coast Guard until 1996. In 1985, the northern 121 acres of the island, with 62 historic structures in a campus-like landscape, were designated a National Historic Landmark District.

Governors Island National Monument is one of the parks within the National Parks of New York Harbor, a framework the NPS created to enhance the identity, visibility, and public support for the parks in the New Jersey–New York metropolitan area. The mission of the National Parks of New York Harbor includes strategic alliance with New York City and other governances; collaboration with other parks and organizations in the area in the care and appropriate use of all historic, recreational, and natural resources; and promotion of the national park system.

The NPS has offered youth programs, education programs, volunteer opportunities, guided and self-guided tours of Governors Island National Monument and surrounding historic district. As of 2021, for the first time in history, Governors Island has been open to visitors year-round.

3.1 Management Issues Addressed by this Agreement

Commercial air tours of the Parks can impact the acoustic and visual experience for visitors. Conditions for the management of commercial air tour operations, contained in Section 4.0, are intended to minimize effects of commercial air tours on the Parks. The setbacks that prevent commercial air tours within 1,000 feet (ft.) laterally of the Parks are intended to protect visitor experience throughout the Parks by reducing potential disturbances caused by commercial air tours.

Statue of Liberty National Monument: Ellis Island and Liberty Island are listed in the National Register of Historic Places. Access inside the Statue of Liberty Pedestal is limited by means of reservation system. One result of this limitation is that a significant percentage of visitors are outside on the grounds of Liberty Island only, where external sources of noise, such as aircraft, have the potential to impact visitor experience negatively. The Department of Homeland Security (DHS) and the Department of the Interior (DOI) have identified Statue of Liberty National Monument as being at increased risk for terrorist activity, and therefore the park unit is subject to much higher safety and security standards consistent with DOI and DHS critical infrastructure policies.

Governors Island National Monument: Fort Jay and Castle Williams are listed in the National Register of Historic Places. Parts of Governors Island are places to enjoy fewer man-made sounds compared to the highly urban environments surrounding the island. Even though Governors Island National Monument was not established as a reprieve from urban life, many visitors remark to NPS that the island is an oasis from the noise, fumes, and general bustle of the surrounding city. The noise from helicopters often disrupts public programs and tours.

4.0 CONDITIONS FOR THE MANAGEMENT OF COMMERCIAL AIR TOUR OPERATIONS OF THE PARKS

This Agreement includes the following provisions and conditions:

Except when necessary for takeoff or landing, or in an emergency or to avoid unsafe conditions, or unless otherwise authorized for a specified purpose, Charm City Aviation LLC shall maintain a 1,000 ft. lateral setback from Liberty Island (high water mark), Ellis Island (high water mark), and the Governors Island National Monument boundary, and shall not fly within the Liberty State Park Avoidance Area as shown in Figure 2.⁴

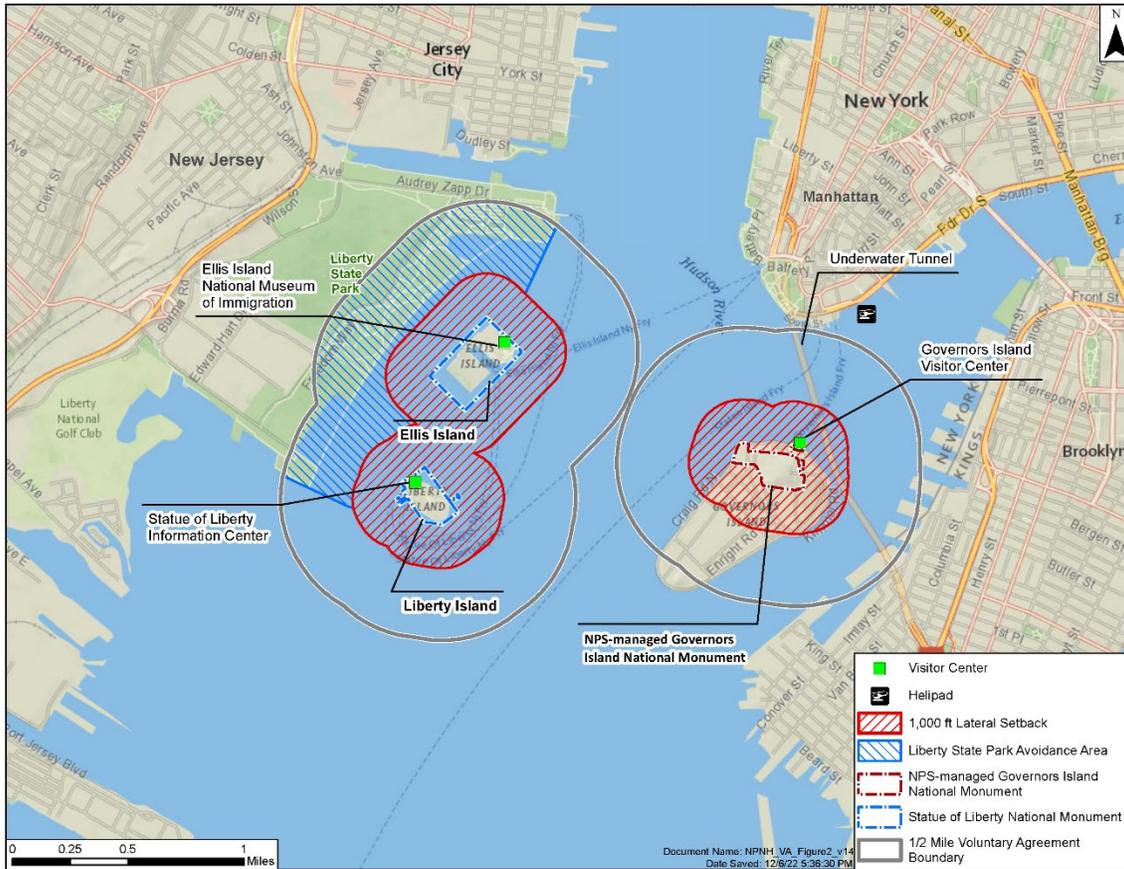


Figure 2. Commercial air tour lateral setbacks for Statue of Liberty National Monument and Governors Island National Monument, and the Liberty State Park Avoidance Area. An expanded map can be found in Appendix A.

Air tour operations within the voluntary agreement boundary shall be conducted in a clockwise direction. Operations within ½ mile of the boundaries of Ellis Island and Liberty Island shall be conducted at a minimum of 500 ft. above ground level (AGL). Operations within ½ mile of the boundary of Governors Island shall be conducted at a minimum of 500 ft. AGL unless on arrival to / or departure from Downtown Manhattan

⁴ Appendix A contains an enlarged Figure 2.

Heliport. Helicopters shall not circle or hover within the voluntary agreement boundary except as consistent with the general traffic flow around the Islands.

Both Parks are contained within a Special Flight Rules Area (SFRA).⁵ All rules of the SFRA apply. This Agreement is consistent with, and does not replace, rules of operation within the SFRA. This Agreement is intended to provide instruction for conducting tours within the SFRA.

5.0 COMPLIANCE

Provisions to ensure the stability of, and compliance with, the Agreement (49 U.S.C. § 40128(b)(7)(B)(ii)) are described below.

5.1 Compliance Mechanisms

Compliance with this Agreement will be ensured through ongoing communications among the Parties to this Agreement, periodic reporting of air tour operations by Charm City Aviation LLC as described in 5.4 of this Section, and enforcement measures if necessary. The Parties agree to work together to address any possible compliance issues.

5.2 Meetings

The Parties will meet on a periodic basis, or as necessary, to discuss compliance and ways to improve the protection of Parks' resources.

5.3 Monitoring and Oversight

On the effective date of this Agreement, all commercial air tours must comply with the terms of this Agreement in all respects. The NPS and the FAA are both responsible for the monitoring and oversight of the Agreement. If the NPS identifies instances of non-compliance with this Agreement, the NPS will report such findings to the appropriate FAA Flight Standards District Office (FSDO). The public may also report allegations of non-compliance with this Agreement to the FSDO. The FSDO will investigate and respond to all written reports consistent with applicable FAA guidance.

Investigative determination of non-compliance with this Agreement may result in loss of authorization to conduct commercial air tours authorized by this Agreement and termination of this Agreement. Any violation of operations specifications (OpSpecs) shall be treated in accordance with FAA Order 2150.3, *FAA Compliance and Enforcement Program*.

5.4 Reporting Requirements

Charm City Aviation LLC will submit to the NPS and the FAA semi-annual reports regarding the number of commercial air tours of either or both of the Parks that are conducted by Charm City Aviation LLC and any such other information as the NPS and the FAA may request. Reports are due to both the NPS and the FAA no later than 30

⁵ New York Class B Airspace Hudson River and East River Exclusion Special Flight Rules Area (14 CFR 93.350-353).

days after the close of each reporting period. Reporting periods are January 1 through June 30 and July 1 through December 31. Charm City Aviation LLC shall adhere to the requirements of any reporting template provided by the agencies.

6.0 TRIBAL CONSULTATION

The Act requires the NPS and the FAA to consult with any Indian tribe whose tribal lands are, or may be, flown over by a commercial air tour operator under a voluntary agreement.⁶ The Parks are not adjacent to tribal lands, nor will air tours authorized by the Agreement fly over tribal lands as defined by the Act.⁷ Therefore, tribal consultation is not required by the Act. However, consistent with policy, the agencies did conduct outreach to Indian Tribes and indigenous organizations reasonably believed to have interests in the area subject to the Agreement.

7.0 PUBLIC REVIEW

The Act requires the NPS and the FAA to provide an opportunity for public review of a proposed voluntary agreement. The proposed Agreement was posted on the NPS Planning, Environment and Public Comment web site (PEPC) for public review from October 21, 2022 through November 21, 2022. The agencies reopened the public review from December 1, 2022 through December 30, 2022. The availability of the proposed Agreement and the public review periods were announced in Federal Register Notices 87 FR 64130 (10/21/2022) and 87 FR 73803 (12/1/2022).

8.0 AMENDMENT

The NPS, the FAA, or Charm City Aviation LLC may request an amendment to this Agreement. Written notice to amend the Agreement must be sent to the other two parties to the Agreement. Revisions to the Agreement can only be approved if all three Parties sign the amendment to the Agreement, following the opportunity for public review and tribal consultation, as necessary.

9.0 TRANSFER OF VOLUNTARY AGREEMENT

This Agreement is not transferable to another air tour operator unless the transfer is pursuant to the complete sale of the air tour company to another air tour company and the Agreement is re-signed by the FAA, the NPS, and the successor air tour operator.

10.0 CONFORMANCE OF OPERATIONS SPECIFICATIONS

OpSpecs will be issued to Charm City Aviation LLC by the FAA consistent with the terms of this Agreement and will remain in effect until this Agreement is amended or terminated.

⁶ 49 U.S.C. § 40128(b)(7)(C).

⁷ *See id.* at § 40128(g)(6).

11.0 TERMINATION

11.1 Initiation of Termination

This Agreement may be terminated at any time at the discretion of:

- (1) the NPS if it determines that the Agreement is not adequately protecting the Parks' resources and/or visitor experiences;
- (2) the FAA if it determines that the Agreement is adversely affecting aviation safety and/or the national aviation system or after an investigative determination of non-compliance with the Agreement; or
- (3) Charm City Aviation LLC for any reason.

Any Party that initiates termination shall send notification in writing to the other signatories of this Agreement.

11.2 Conditions upon Termination

Upon termination, Charm City Aviation LLC shall be prohibited from conducting commercial air tours as defined in Section 2.0, Applicability.

11.3 Effective Date of Termination

The effective date of termination of this Agreement shall be 30 days following a termination notice by any of the Parties to the Agreement.

12.0 AGREEMENT AND EFFECTIVE DATE

The Parties to this Agreement agree to abide by the terms set forth in this Agreement. This Agreement is effective on the date of signature by all Parties.

Freddie Ephraim
Freddie Ephraim (Jan 19, 2023 19:54 EST)

Freddie Ephraim	Date
Director of Operations	
Charm City Aviation LLC	

Gay E. Vietzke
Gay E. Vietzke (Jan 25, 2023 12:14 EST)

Gay E. Vietzke	Date
Regional Director	
Interior Region 1	
National Park Service	

Marie Kennington-Gardiner
Marie Kennington-Gardiner (Jan 23, 2023 08:10 EST)

Marie Kennington-Gardiner	Date
Regional Administrator	
Eastern Region	
Federal Aviation Administration	

Raymond M. Sauvajot
Raymond M. Sauvajot (Jan 20, 2023 17:08 EST)

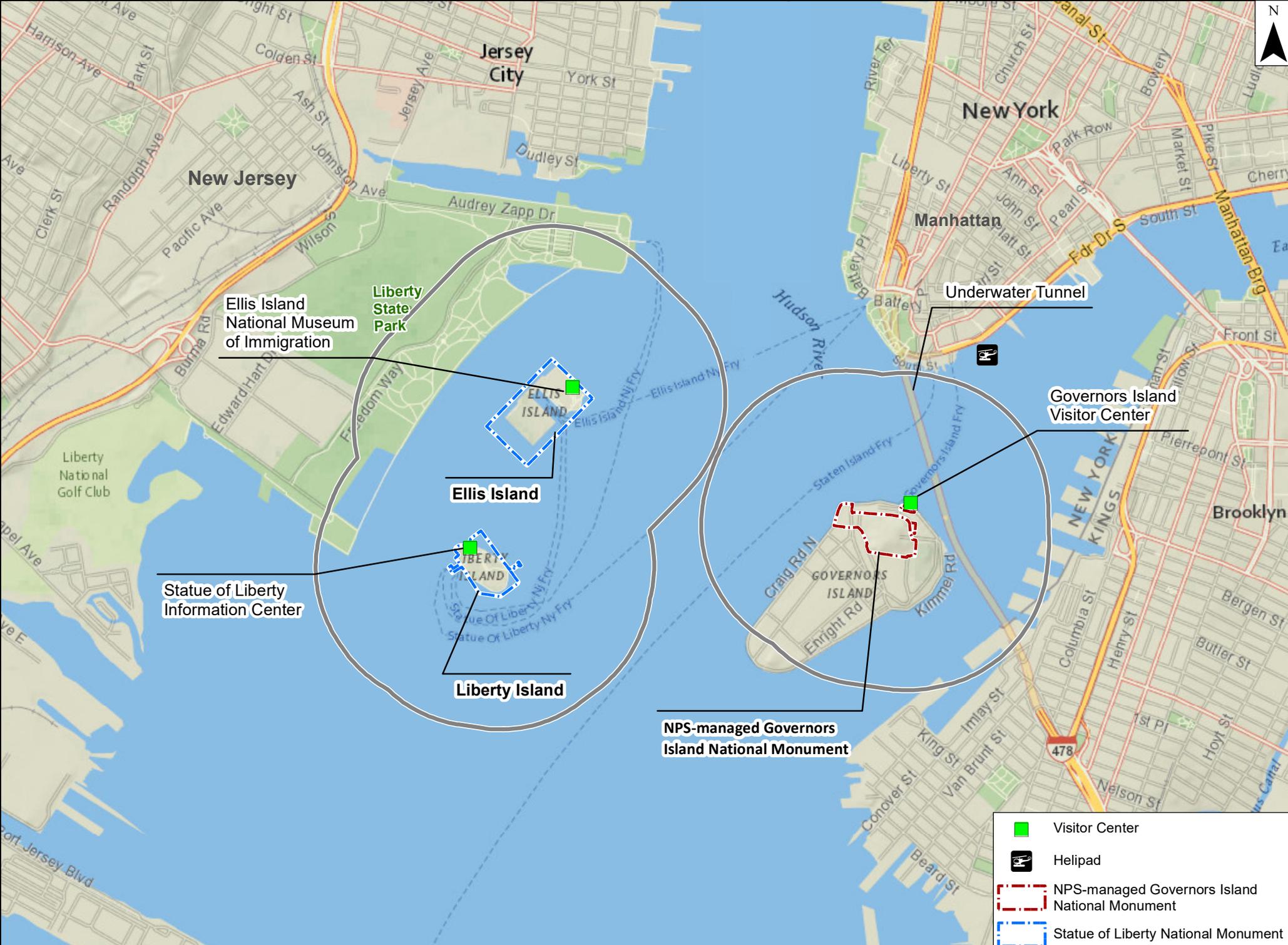
Raymond M. Sauvajot	Date
Associate Director	
Natural Resource Stewardship and	
Science Directorate	
National Park Service	

Kevin Welsh
Kevin Welsh (Jan 20, 2023 17:02 EST)

Kevin Welsh	Date
Executive Director	
Office of Environment & Energy	
Federal Aviation Administration	

APPENDIX A

Enlarged Figures 1 and 2



Ellis Island
National Museum
of Immigration

Liberty
State
Park

Ellis Island

Statue of Liberty
Information Center

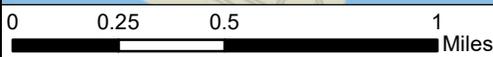
Liberty Island

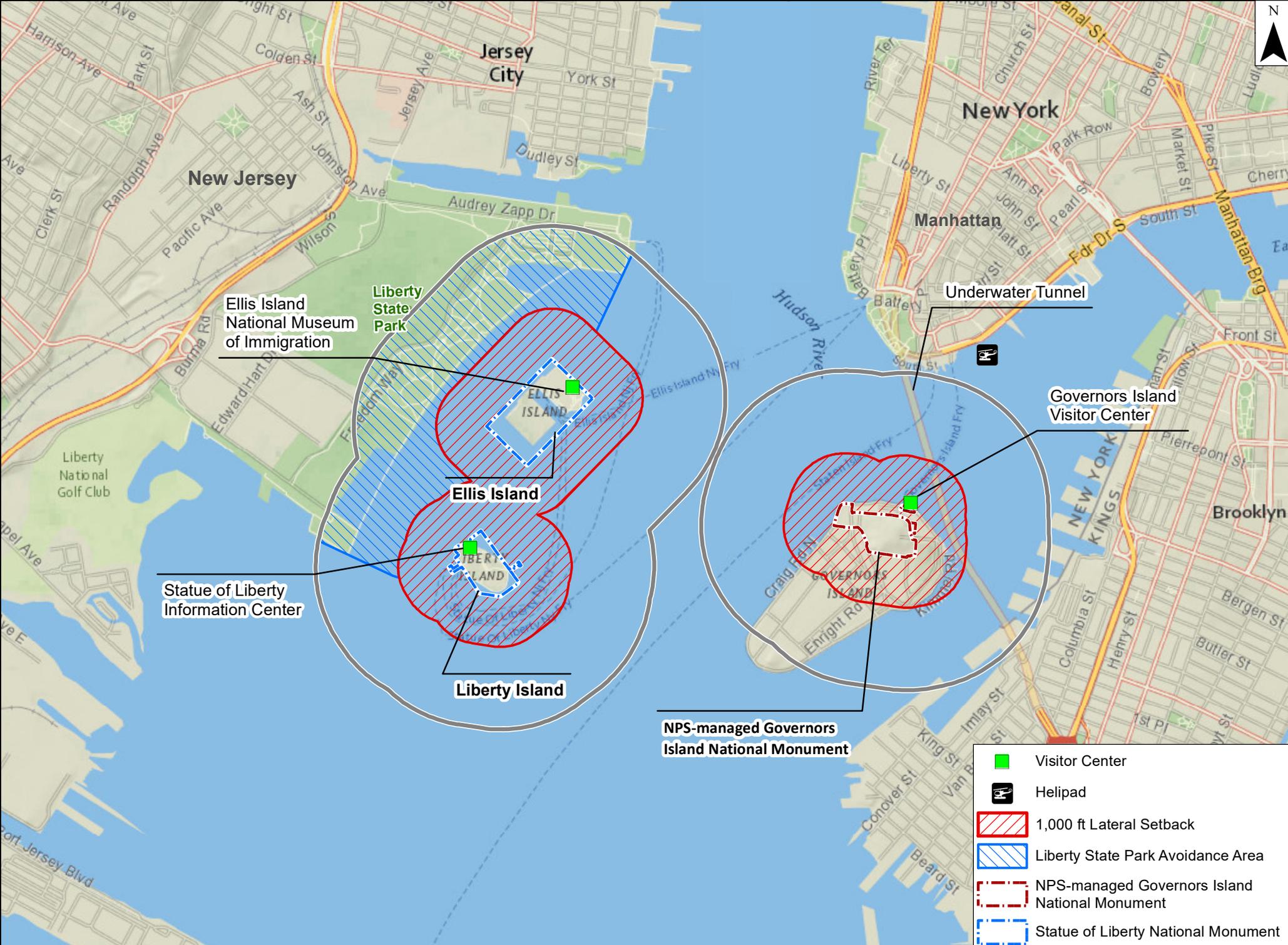
Underwater Tunnel

Governors Island
Visitor Center

NPS-managed Governors
Island National Monument

-  Visitor Center
-  Helipad
-  NPS-managed Governors Island National Monument
-  Statue of Liberty National Monument
-  1/2 Mile Voluntary Agreement Boundary





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-  Visitor Center
-  Helipad
-  1,000 ft Lateral Setback
-  Liberty State Park Avoidance Area
-  NPS-managed Governors Island National Monument
-  Statue of Liberty National Monument
-  1/2 Mile Voluntary Agreement Boundary

